

FILED
9/28/2021
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT
DB

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	
)	21 CR 128
KEVIN SMITH,)	Honorable Judge
)	John F. Kness
)	
Defendant.)	

MOTION FOR THE PRODUCTION OF CHIEF EVIDENCE AND WITNESSES

Now comes Kevin Smith, the defendant, by and through himself, to submit this Motion for the Production of Chief Evidence and Witnesses for each count listed in the indictment filed at Dkt. 1 on February 23, 2021.

1. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant, Kevin Smith, (defendant herein), knowingly participated in a scheme to defraud financial institutions, and to obtain money and funds owned by and under the custody and control of financial institutions by means of materially false and fraudulent pretenses, representations, and promises, and by concealment of material facts, and that no other logical explanation can be inferred or deduced from the evidence.

2. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant caused buyers to fraudulently obtain FHA-guaranteed and VA-guaranteed mortgage loans from financial institutions in a total amount of at least approximately \$2.6 million by making and causing to be made materially false representations in documents submitted to the financial institutions.
3. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations in loan applications submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence.
4. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations in gift letters submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence. Specifically provide authenticated admissible evidence that the purported gift was a loan or was paid back by the borrower.
5. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations in the form of letters of explanation submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence.

6. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations in the form HUD-1 settlement statements submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence.
7. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations concerning the buyers' marital status submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence. Please provide the government or HUD endorsed underwriting participant's guidelines or a specific procedure that explicitly and specifically gives loan originators or other individuals involved in the loan process a way to authenticate or verify an applicant's marital status.
8. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made materially false representations in documents in regard to the buyers' source of down payment submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence. Please provide the evidence that proves the down payment did not actually come from the account or person that was listed on the application and that no other logical explanation can be inferred or deduced from the evidence.
9. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be

derived from the facts is that the defendant made materially false representations regarding the buyers' intention to occupy the property purchased as a primary residence in documents submitted to the financial institutions, and that no other logical explanation can be inferred or deduced from the evidence.

10. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant caused and concealed material facts that the defendant had promised to pay, and did pay, the buyers a "grant" of as much as \$20,000 after the closing of the buyers' purchase of the property, in the form of a verifiable funds written to the buyers from a bank account that the defendant had the authority to withdraw funds from, and that no other logical explanation can be inferred or deduced from the evidence.
11. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant caused and concealed material facts that the defendant arranged to be paid, and was paid, money by the sellers, after the closing of the buyers' purchase of the property. Please provide the authenticated checks and/or any other forms of payments made directly to the defendant by the sellers of the property and the communication between the sellers of the property and the defendant after the closings that directly states that the defendant was paid or received funds solely based upon the sale of the property, and that no other logical explanation can be inferred or deduced from the evidence.

12. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant recruited and caused to be recruited individuals to serve as buyers to purchase properties, including properties in Chicago, Illinois located at: 5649 S. Princeton Avenue , 6628 S. Carpenter Street, 5429 S. Bishop Street, 4246 W. Adams Street, 325 W. 59th Place, 4310 W. Monroe Street, 4437 W. Adams Street, 5136 S. Throop Street, 5243 S. Damen Avenue, 6023 S. May Street, 6616 S. Laflin Street, 5942 S. Sangamon Street, 6554 S. Winchester Avenue, and 6142 S. Morgan Street, and that the defendant knew that the buyers would be fraudulently qualified for mortgage loans to purchase the properties, and that no other logical explanation can be inferred or deduced from the evidence.
13. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant presented real estate investment seminars at churches and hotels in Chicago and its suburbs in order to recruit individuals to serve as property buyers and stated that, among other things, the buyers would not have to invest any of their own money or make any down payment on the property the buyers would be paid a "grant" for purchasing the property, tenants would be found to rent the property from the buyers, including tenants under HUD's Housing Choice Voucher Program (commonly known as the Section 8 program), and the property would be managed for the buyers for at least one year after the purchase of the property, and that no other logical explanation can be inferred or deduced from the evidence. Please state the statute or bank rule that deems this activity as fraudulent.

14. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant prepared and submitted, and caused to be prepared and submitted, to financial institutions loan applications for buyers that the defendant knew contained false and fraudulent information about the buyers' qualifications for mortgage loans, including false and fraudulent information about the buyers' marital status, source of down payment, and intention to occupy the property purchased as a primary residence, and that no other logical explanation can be inferred or deduced from the evidence.
15. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant knowingly caused to be prepared and submitted to financial institutions fraudulent documents that supported the false information contained in loan applications, including fraudulent letters of explanation and fraudulent gift letters that defendant knew falsely reflected that certain individuals who purportedly were related to the buyers were providing the buyers with gifts to be applied toward the down payments on the properties, when he knew those gift letters were false and the down payments were not funded by relatives of the buyers, and that no other logical explanation can be inferred or deduced from the evidence. Please also provide the government or HUD endorsed underwriting participant's guidelines or a specific procedure that explicitly and specifically gives loan originators or other individuals involved in the loan process a way to authenticate or verify an applicant's relationship with the individual gifting a down payment.

16. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant provided and caused others to provide funds to buyers or to individuals purportedly providing gifts to buyers, knowing that these funds would be used as the buyers' down payments, and knowing that these funds had been fraudulently represented to financial institutions as having come from the buyers themselves or from relatives purportedly providing gifts to the buyer, and that no other logical explanation can be inferred or deduced from the evidence. Please provide the communication to show that the defendant caused others to provide funds to buyers or individuals purportedly providing gifts as down payments to buyers and the proof of funds coming from an account that the defendant has authority to withdraw money from that provided funds to buyers or individuals purportedly providing gifts as down payments to buyers.
17. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant caused buyers to falsely state that they intended to live in the properties they were purchasing as their primary residence, when the defendant knew that was untrue and that defendant planned to rent out the properties, and that no other logical explanation can be inferred or deduced from the evidence.
18. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant discouraged buyers from obtaining an

attorney to represent them in their purchases of property, and that no other logical explanation can be inferred or deduced from the evidence.

19. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant received payments of money from the sellers, or others acting on behalf of the sellers, knowing those payments were fraudulently omitted from the HUD-I settlement statements and were not otherwise reported to the financial institutions issuing the mortgage loans and that no other logical explanation can be inferred or deduced from the evidence.
20. Please provide the authenticated chief admissible evidence that meets the minimal required standard by the prosecution to show that the only logical explanation that can be derived from the facts is that the defendant made payments of money to the buyers and to individuals who had provided down payment funds on behalf of the buyers, knowing those payments were fraudulently omitted from the HUD-I settlement statements and were not otherwise reported to the financial institutions issuing the mortgage loan and that no other logical explanation can be inferred or deduced from the evidence. Please provide the evidence to prove the payments made to buyers and individuals who had provided down payment funds on behalf of the buyers by the defendant came from a bank account in which the defendant had the authority to withdraw money from.
21. Please provide the authenticated chief admissible evidence that will provide clarity as to what the following statement means: It was further part of the scheme that the defendant did misrepresent, conceal, and hide, and caused to be misrepresented, concealed, and hidden, acts done in furtherance of the scheme and the purpose of those acts.

22. Please provide the complete list of fact witnesses and their contact information that will be used in addition to the required evidence for counts 1 through 5 listed on the indictment.
23. Please provide names, addresses, and phone numbers of all churches and hotels that were used for the real estate seminars.
24. Please provide complete list of all sellers of the properties along with all rental agreements that were in force at the time of the sale of the property.
25. Please provide a complete list of the tenants that occupied the properties at the time of sale of each property.
26. Please provide a detailed outline of each HUD – 1 violation caused by the concealment of material facts and the underwriting guideline that governed the violations.
27. Please provide any marketing material used by the defendant to promote any false representations.
28. With respect to all counts, the date of the earliest statement and/or event on which the prosecution will rely upon to prove a scheme existed.

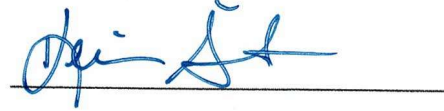
Note: Due to time constraints and based upon the uncertainty of the Court granting an extension of time for filing pretrial motions, a memorandum in support of this motion will follow on a later date.

Wherefore the defendant, Kevin Smith, respectfully and humbly moves the Court to enter an order moving the Government to provide the evidence as requested in this motion.

ATTESTATION

I declare that to the best of my knowledge under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kevin Smith", is written over a horizontal line.

Kevin Smith, Pro Se Defendant
1440 W. Taylor, #1390
Chicago, IL 60607

Executed on September 28, 2021

Certificate of Service

I hereby certify that a copy of this document was sent via email on September 28, 2021 to the Northern District of IL electronic filing system at

Temporary_E-Filing@ilnd.uscourts.gov

I hereby certify that a copy of this document was sent via email on September 28 2021 to Judge John F. Kness in care of Enjoli Fletcher at

Enjoli_Fletcher@ilnd.uscourts.gov

I hereby certify that a copy of this document was sent via email on September 28, 2021 to

Stephen Heinze at Stephen.heinze@usdoj.gov